

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ronald & Diane Wasmund,
Petitioner-Appellants,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-30-0068
Parcel No. 07-29-355-019

On September 29, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted pursuant to Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Petitioner-Appellants, Ronald and Diane Wasmund, were self-represented, participated by telephone, and submitted evidence in support of their appeal. The Respondent-Appellee, Dickinson County Board of Review, designated Assistant County Attorney Lonnie Saunders as its legal representative. It also participated by telephone. A digital record of the proceeding was made. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ronald and Diane Wasmund, owners of property located at 482 Dam Road, Arnold's Park, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. The real estate was classified as residential realty for January 1, 2009, and valued at \$430,600; representing \$152,900 for the dwelling value and \$277,700 for the land.

The Wasmunds protested to the Board of Review on the grounds that the property's assessment was not equitable with the assessments of other like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.27(1)(b).

The Board of Review minutes indicate that in response to the protest, consensus was that the land should be adjusted downward 5% based on its review of the Wasmund's petition. The Board of Review reduced the land value to \$263,800, for a total assessed value of \$416,700.

The Wasmunds then filed an appeal with this Board on the ground of inequity but did not allege the ground that the property was assessed for more than authorized by law. This Board will only consider the ground of inequity, as this was the only ground alleged to this Board that was also alleged to the Board of Review. The amount of relief sought in this appeal by the Wasmunds is \$52,000, who value the property at \$364,700.

The subject property is located on Lake Minnewashta. The site has seventy-four feet of lake frontage with a depth of 171.97 feet on one side and 173.36 feet on the other side. The dwelling was built in 1994, however the assessed value of the dwelling is not being appealed.

Mr. Wasmund testified that in 2008 the Board of Review had given them a 20% reduction on their land based on the assessments of other comparable properties, the view of other docks from their property, and the boat situation in the area.

Mr. Wasmund presented an aerial photo of multiple docks on the Smith property that he believes obstructs his view and is reason to reduce the assessed value. He also compares the Smith property, that is classified and valued as commercial realty, to his residential property.

Mr. Wasmund also testified that the McCoy comparable, locally known as Christie's Point, was assessed on a square-foot price whereas his lake lot is assessed on a front-foot price. Mr. Wasmund commented that the McCoy property was larger than his and had a better view but was assessed at a lower value per square foot than his land.

Mr. Wasmund's third comparable was the Jones property located next to his property. The Jones property received a 10% reduction from the Board of Review. He noted that his property only received a 5% reduction for the land value. Mr. Wasmund contends both properties have the same

view obstruction and share a property line. For this reason, he believes the properties should be similarly discounted.

Assessor Pat Dodds, on behalf of the Board of Review, submitted evidence detailing how she applied land adjustments for the frontage and depth of the lake front lots. Ms. Dodds also testified regarding the McCoy property. She stated that the McCoy property was best assessed on a square-foot method due to the size and shape of the lot. Also, she made an adjustment for the topography of the irregular-shaped site because of the water levels, flooding, expense difficulties of developing the parcel, and the limited number of possible future lots.

Ms. Dodds testified that the difference in the Smith property, as compared to the Wasmund property, is an issue of classification. The Smith property is classified commercial, and the Wasmund property is residential. We agree with Ms. Dodds that this makes the properties incomparable. Ms. Dodds testified that the Joneses property located next to the Wasmund property received the 10% adjustment from the Board of Review because that property was more obstructed and located nearer the commercial docks. Ms. Dodds stated that she used the *Iowa Real Property Appraisal Manual* to assess all property.

Reviewing all the evidence, we find that comparing a commercial classified property to a residential classified property is inappropriate and that the assessor used reasonable appraisal methods to value the site. The assessor is not required to use just a front-foot or square-foot method to value land. This Board finds the testimony of Assessor Dodds to be reliable. Therefore, this Board finds the Wasmunds failed to meet their burden of proof, and we affirm the 2009 Dickinson County Board of Review assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

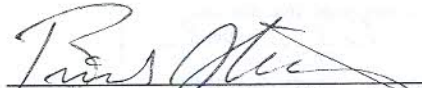
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion the Wasmunds failed to present persuasive evidence sufficient

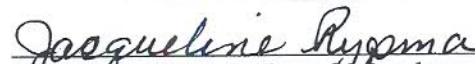
to support the claim that their assessment was not equitable as compared with assessments of other like property in the taxing district.

Viewing the evidence as a whole, we determine the appellants, Ronald and Diane Wasmund, failed to prove that their property is inequitably assessed. This Board did not find that the properties submitted by the Wasmunds to be comparable to the subject property. We, therefore, affirm the Wasmunds' property assessment as determined by the Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Dickinson County Board of Review, is affirmed.

Dated this _____ day of October, 2009.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Chair

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 9/23, 2009

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature W. Myrtin